

INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Washington, D. C. 20226

Number: 85-5

Date: July 3, 1985

POLYETHYLENE CONTAINERS

Proprietors of Distilled Spirits Plants, Importers,
Bonded Dealers, and Others Concerned:

Purpose: The purpose of this circular is to inform you of a forthcoming ATF ruling concerning the approval of polyethylene containers for bottling and packaging distilled spirits and denatured spirits. The ATF ruling will read as follows:

The Bureau of Alcohol, Tobacco and Firearms has been requested to approve the use of polyethylene containers for the bottling and packaging of distilled spirits and denatured spirits.

Section 5206(a) of the Internal Revenue Code of 1954 (26 U.S.C.), relating to containers of distilled spirits, provides that "[t]he Secretary shall by regulations prescribe the types or kinds of containers which may be used to contain, store, transfer, convey, remove, or withdraw distilled spirits." Section 19.581 of the "distilled spirits plants" regulations appearing in 27 CFR Part 19, provides that proprietors of distilled spirits plants shall use approved containers for the packaging of distilled spirits and denatured spirits. Approved containers are containers specifically authorized for use by the "distilled spirits plants" regulations, and other containers specifically approved for use by the Director of the Bureau of Alcohol, Tobacco and Firearms under the provisions of section 19.581.

In Rev. Rul. 64-297, C.B. 1964-2, 560, the Director authorized the use of the following polyethylene drums as approved containers for the packaging and shipping of distilled spirits and denatured spirits:

- (1) A polyethylene drum overpacked in an ICC-6-J removable head steel drum.
- (2) A polyethylene drum of 55 gallon capacity, overpacked in a steel drum.
- (3) A polyethylene drum of 15 gallon capacity, overpacked in a fiber drum.

Rev. Rul. 64-297 authorizes the use of polyethylene drums which are overpacked in some other type drum. This ATF ruling authorizes the use of polyethylene drums having a capacity of 10 wine gallons or less and which are to be packaged and shipped without being overpacked in any other type drum.

The marking of polyethylene drums, upon being filled with distilled spirits or denatured spirits, shall be in accordance with the applicable provisions of the "distilled spirits plants" regulations. No age may be claimed in the labeling of any distilled spirits so packaged for the time they remain in the polyethylene drums; nor may any previously acquired age from storage in wooden containers be claimed unless the records of the bottler clearly substantiate such claims. In addition, all closure devices on polyethylene drums shall be tamper evident.

This ATF ruling also authorizes the use of polyethylene containers having a capacity of one wine gallon or less for the bottling of distilled spirits. Beverage alcohol, however, shall only be bottled in authorized standards of fill as specified in 27 CFR Part 5.

Proprietors and importers desiring approval of polyethylene liquor bottles of distinctive shape or design shall apply to the Director for approval of such containers as authorized in 27 CFR Part 19, 27 CFR Part 250, or 27 CFR Part 251.

The Bureau recognizes that, in some minor instances, a proof gain of up to two degrees of proof per year (and a corresponding water volume loss) may occur when using polyethylene liquor bottles. However, this effect can be minimized by avoiding high storage temperatures, by insuring that the wall thickness of polyethylene containers is uniform, and by insuring market turnover. ATF has concluded that this characteristic poses no jeopardy to the revenue because the taxable commodity, the alcohol, does not travel through the container wall. The quantity of alcohol does not change between the time of bottling and the point of tax determination. Therefore, it has been determined that the use of polyethylene containers as liquor bottles provides adequate protection to the excise tax revenue.

In accordance with the requirements imposed by the National Environmental Policy Act, the Food and Drug Administration has determined that the use of polyethylene for food contact purposes (including alcoholic beverages) will not significantly affect the quality of the human environment and that no environmental impact statement is necessary.

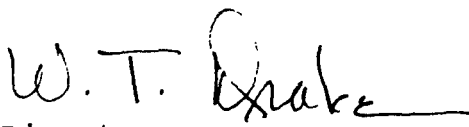
Pursuant to section 5301 of the Internal Revenue Code of 1954 (26 U.S.C) and 27 CFR 19.581, types of containers not specifically authorized by 27 CFR Part 19 for a particular purpose may be authorized for that purpose by the Director on a finding that the use of such container will afford protection to the revenue equal to or greater than that afforded by containers specifically authorized by Part 19 and that such use will not cause administrative difficulty.

Held, polyethylene drums, not overpacked in any other type container, used to package distilled spirits and denatured spirits, and polyethylene containers, used to bottle distilled spirits, will neither jeopardize the revenue nor cause administrative difficulty and may thus be used as containers for distilled spirits and/or denatured spirits when such containers conform to the following specifications and conditions:

- (1) The drum or bottle must be made of high density polyethylene that is molded in one piece so that it is a smooth, continuous, seamless unit.
- (2) The drum or bottle must be of rigid or semirigid construction and must have a shape or design which cannot be permanently altered by pressure without damage to the drum or bottle.
- (3) The material used to construct the polyethylene drum or bottle must meet Food and Drug Administration specifications for the packaging of alcoholic beverages as promulgated in the Code of Federal Regulations.
- (4) The closure device for the drum or bottle must be tamper evident.
- (5) No more than 10 wine gallons of distilled spirits or denatured spirits can be contained in each polyethylene drum.

- (6) No more than 1 wine gallon of distilled spirits can be contained in each polyethylene bottle. Beverage alcohol contained in polyethylene bottles must be in an authorized standard of fill as specified in 27 CFR Part 5.
- (7) Polyethylene liquor bottles of distinctive shape or design must be approved by the Director prior to use.

Inquiries: Inquiries concerning this circular should refer to its number and be addressed to the Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Attention: Distilled Spirits and Tobacco Branch.


Acting Director

Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
Distribution Services
P.O. Box 14188
Washington, D.C., 20044

Official Business
Penalty for Private Use, \$300

Postage and Fees Paid
Department of the Treasury
Treas 564

